

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 34502

STATE OF IDAHO,)	2008 Unpublished Opinion No. 647
)	
Plaintiff-Respondent,)	Filed: September 19, 2008
)	
v.)	Stephen W. Kenyon, Clerk
)	
DOUGLAS D. COOPER,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Blaine County. Hon. John K. Butler, District Judge.

Judgment of conviction and unified sentence of fifteen years, with a minimum period of confinement of two years, for lewd conduct with a minor child under sixteen, affirmed; order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Andrew Parnes, Ketchum, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Thomas Tharp, Deputy Attorney General, Boise, for respondent.

PER CURIAM

Douglas D. Cooper pled guilty to lewd conduct with a minor child under sixteen. I.C. § 18-1508. In exchange for his guilty plea, three additional charges were dismissed. The district court sentenced Cooper to a unified term of fifteen years, with a minimum period of confinement of two years. Cooper filed an I.C.R 35 motion, which the district court denied. Cooper appeals.

Sentencing is a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of the sentence are well established. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387,

391 (2007). Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion.

Next, we review whether the district court erred in denying Cooper's Rule 35 motion. A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). In conducting our review of the grant or denial of a Rule 35 motion, we consider the entire record and apply the same criteria used for determining the reasonableness of the original sentence. *State v. Forde*, 113 Idaho 21, 22, 740 P.2d 63, 64 (Ct. App. 1997); *Lopez*, 106 Idaho at 449-51, 680 P.2d at 871-73. Upon review of the record, we conclude no abuse of discretion has been shown.

Therefore, Cooper's judgment of conviction and sentence, and the district court's order denying Cooper's Rule 35 motion, are affirmed.